

# ATTACHMENT

June 1, 2006

Via Overnight Delivery

Ms. Kathryn Feeney  
Wholesale Markets  
Embarq  
9300 Metcalf  
Overland Park, KS 66212

Re: Request for Interconnection Agreement Negotiation

Dear Ms. Feeney:

I am in receipt of your letter dated May 19, 2006, in which Embarq - Florida, Incorporated ("Embarq") requests (" ") to enter into negotiations for an interconnection agreement pursuant to the negotiation requirements of Section 252 of the Communications Act of 1934, as amended; part 51.715 of the Commission's rules, 47 C.F.R. § 51.715; and the *T-Mobile Declaratory Ruling*, FCC 05-42.

Section 252 of the Act establishes the processes by which an interconnection agreement between an incumbent local exchange carrier ("LEC") and a requesting carrier takes shape and becomes effective, including certain negotiation and arbitration procedures. Notably, Section 252 provides that an incumbent LEC (such as Embarq) may receive requests for interconnection from competing local exchange carriers (such as ). But Section 252 does not provide for, nor entitle, Embarq itself to invoke the negotiation procedures set forth in Section 252. In the *T-Mobile Declaratory Ruling*, the Federal Communications Commission (the "Commission") amended part 20.11 of its rules to clarify that an incumbent LEC may request interconnection from a *commercial mobile radio service* ("CMRS") provider and invoke the negotiation and arbitration procedures set forth in Section 252 of the Act. However, the *T-Mobile Declaratory Ruling* is limited to the negotiation of interconnection arrangements between incumbent LECs and CMRS providers. That decision did not address nor otherwise alter the negotiation of interconnection arrangements between incumbent LECs and requesting *wireline* carriers under Section 252. Accordingly, hereby rejects Embarq's request to enter into negotiations for an interconnection agreement under Section 252.

acknowledges that Section 251 imposes a general interconnection obligation upon all telecommunications carriers, including . In particular, Section 251(a)(1) of the

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Act provides that "[e]ach telecommunications carrier has the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers."

believes that it already is meeting its obligations under Section 251 by interconnecting with Embarq through transiting arrangements. Nevertheless, is willing to entertain the opening of discussions with Embarq regarding a direct interconnection arrangement under Section 251 (but *not* under Section 252).

Finally, rejects the notion that Embarq can unilaterally impose a prescribed terminating access rate on traffic exchanged between Embarq and . Pursuant to Section 51.715 of the Commission's rules, an incumbent LEC can, upon receiving a request for negotiation from another carrier, establish an interim rate that the requesting carrier must pay during the period of negotiation and arbitration, provided that the incumbent LEC and the requesting carrier are not parties to an existing interconnection agreement. Importantly, Section 51.715 of the Commission's rules does not give an incumbent LEC the right to request negotiation with a wireline carrier and demand payment of an interim rate during the period of negotiation and arbitration. In the *T-Mobile Declaratory Ruling*, the Commission amended its rules to permit an incumbent LEC to request negotiation with a *CMRS provider*, and, once the request is made, to demand interim compensation from the *CMRS provider* during the period of negotiation and arbitration in accordance with the rate provisions set forth in part 51.715 of the Commission's rules. However, the *T-Mobile Declaratory Ruling* did not address negotiations between wireline carriers, and the rule the Commission adopted in that ruling, Section 20.11, does not permit an incumbent LEC to request negotiation with a wireline carrier or demand interim compensation during the period of negotiation and arbitration. In this case, given that has not requested negotiation with Embarq pursuant to Section 51.301 of the Commission's rules, the interim compensation arrangements set forth in Section 51.715 of the Commission's rules do not apply. Accordingly, there is no basis for Embarq unilaterally to impose a prescribed terminating access rate on traffic exchanged between Embarq and .

Please contact me if you would like to begin discussions regarding a direct interconnection arrangement under Section 251 of the Act.

Sincerely,